

MARY DERHEIMER and  
DONALD THOMAS,

VS.

Defendants.

CIVIL ACTION NO.

1:11-CV-2554-CC

This matter is presently before the Court on Magistrate Judge Linda T. Walker’s Final Report and Recommendation (hereinafter the “Report”) [Doc. No. 59] on the Motion to Dismiss the Action (hereinafter the “Motion to Dismiss”) filed by Plaintiff Mary Derheimer (“Plaintiff Derheimer”) and Plaintiff Donald Thomas (“Plaintiff Thomas”) (collectively referred to as “Plaintiffs”). In the Report, Magistrate Judge Walker recommends that the Court dismiss without prejudice the above-styled action on the condition that, if Plaintiffs refile their action against Defendant Fulton-DeKalb Hospital Authority doing business as Grady Health System and Defendant Grady Memorial Hospital Corporation (collectively referred to as “Defendants”), the Court will assess whether the costs incurred by Defendants from this action should be imposed on Plaintiffs pursuant to Federal Rule of Civil Procedure 41(d). The record reflects that no objections to the Report have been filed, and the time period for submitting objections has elapsed. The Court, having conducted a plain error review in accordance with United States v. Slay, 714 F.2d 1093, 1095 (11th Cir. 1983), finds that the Report is correct both in fact and in law. The Court hereby **ADOPTS** the Report as the decision of the Court. For the reasons

stated in the Report, the Court hereby **GRANTS** Plaintiffs' Motion to Dismiss [Doc. No. 56] and **DISMISSES without prejudice** the above-styled action subject to the condition specified in the Report.

SO ORDERED this 17th day of July, 2012.

s/ CLARENCE COOPER

CLARENCE COOPER  
SENIOR UNITED STATES DISTRICT JUDGE